

REMARKS/ARGUMENTS

Claims 31-37, 39-41, 43-51, 53, and 55-63 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,438,711 (Woodruff) in view of U.S. Patent No. 6,161,177 (Anderson). However, Woodruff indicates on its face assignment to Intel Corporation. Thus, Woodruff is not usable as prior art under 35 U.S.C. §103(c), as the present application and Woodruff were at the time the invention of the present application was made, owned by or subject to an obligation of assignment to Intel Corporation. Evidence of the ownership of Woodruff by Intel Corporation is recorded with the Patent Office at reel/frame 009325/0795. Evidence of ownership of the present application by Intel Corporation is recorded with the Patent Office at reel/frame 010463/0513. Because Woodruff is not usable as prior art, the rejection of claims 31-37, 39-41, 43-51, 53, and 55-63 under §103 over Woodruff, alone or in view of Anderson, is overcome.

Claims 40-41 and 43-50 stand rejected under 35 U.S.C. § 101 because the "claimed invention is directed to non-statutory subject matter." Claim 40 states a "medium for storing instructions that cause a system to ... load either a first module ... or a second module ... based on the system state." According to the *Interim Guidelines for Examination of Patent Application for Patent Subject Matter Eligibility*, a "computer-readable medium encoded with a computer program...defines a structural and functional interrelationship between the computer program and the rest of the computer...and is statutory." Page 53. Accordingly, claim 40 states a functional interrelationship between the "instructions" and the "system" which permit the system's functionality (e.g., "load either a first module ... or a second module ... based on the system state") to be realized. Thus, claim 40 concerns a useful, concrete, and tangible result. For at least these reasons, the § 101 rejection is overcome for claims 40-41 and 43-50.


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In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,

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